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REMARKS

Claims 1-62 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Claims 1-62 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The second paragraph of 35 U.S.C. §112 states that claims must particularly point out and distinctly claim the invention. According to §2173 of the M.P.E.P., "[t]he primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." M.P.E.P. §2173.01 provides further guidance as to what is required under 35 U.S.C. §112, second paragraph. Specifically, M.P.E.P. §2173.01 states:

[Applicants] can define in the claims what they regard as their invention essentially in whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art. Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. As noted by the court in *In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971), a claim may not be rejected solely because of the type of language used to define the subject matter for which patent protection is sought.

Furthermore, M.P.E.P. §2173.02 provides guidance for the Examiner for reviewing a claim for definiteness. Specifically, M.P.E.P. §2173.02 states:

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. . . . In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim

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apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). See also *In re Larsen*, No. 01-1092 (Fed. Cir. May 9, 2001) (unpublished) . . . If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph would be appropriate. See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993). However, if the language used by applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the applicant to improve the clarity or precision of the language used, the claim must not be rejected under 35 U.S.C. 112.

In view of the requirements for definiteness stated above, Applicant submits that all pending claims are clearly definite.

According to the Office Action, claim 1 is rejected because structural cooperation is not positively set forth for "latch assembly" particularly with respect to the hopper and the lid, sufficient structure has not been set forth to perform the recited function of driving the press plate and the recitation "automatically activates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant submits that all of the claim language referenced in the Office Action in claim 1 is definite. First, the "latch assembly" is "adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated." Accordingly, the latch assembly cooperates with the lid to maintain the lid in the closed position or discontinue maintaining the lid in the closed position. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and thus this phrase is definite. Second, claim 1 does not recite that the press plate is driven. Claim 1 only states that the "press plate" is "adapted to be driven towards the lid." Accordingly, this phrase is definite. Finally, claim 1 states "the latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid." The structure that "automatically activates" is the latch assembly. Once again, this claim language in claim 1 apprises one of ordinary skill in the art of its scope and provides

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clear warning to others as to what constitutes infringement of the claim and this phrase is definite. Accordingly, claim 1 is definite.

According to the Office Action, claim 16 is rejected because, according to the Office Action, the recitation "automatically activates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant assumes that the Office Action had a typo in this paragraph and that the Office Action meant to state that the phrase "automatically deactivates" is vague and indefinite, similar to the indefiniteness rejection of claim 18. Claim 16 states "the latch assembly automatically deactivates when the latch assembly is not activated by the hydraulic assembly." The structure that "automatically deactivates" is the latch assembly. Once again, this claim language in claim 16 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, claim 16 is definite.

According to the Office Action, claim 18 is rejected because structural cooperation is not positively set forth for "latch assembly" particularly with respect to the hopper and the lid, sufficient structure has not been set forth to perform the recited function of driving the press plate and the recitation "automatically deactivates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant submits that all of the claim language referenced in the Office Action in claim 18 is definite. First, the "latch assembly" is "adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated." Accordingly, the latch assembly cooperates with the lid to maintain the lid in the closed position or discontinue maintaining the lid in the closed position. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and this phrase is definite. Second, claim 18 does not recite that the press plate is driven. Claim 18 only states that the "press plate" is "adapted to be driven towards the lid." Accordingly, this phrase is definite. Finally, claim 18 states "the latch assembly automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper." The structure that "automatically deactivates" is the latch assembly. Once again, this claim language in claim 18 apprises one of ordinary skill in

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the art of its scope and provides clear warning to others as to what constitutes infringement of the claim and is definite. Accordingly, claim 18 is definite.

According to the Office Action, claim 34 is rejected because structural cooperation is not positively set forth for "an actuating mechanism" particularly with respect to the press plate and the recitation "automatically deactivates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant submits that all of the claim language referenced in the Office Action in claim 34 is definite. First, the "actuating mechanism" is for driving the press plate towards the lid. Accordingly, the actuating mechanism cooperates with the press plate to drive the press plate. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and this phrase is definite. Second, claim 34 states "the latch assembly is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not activated." The structure that "automatically deactivates" is the latch assembly. Once again, this claim language in claim 34 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim and this claim is definite. Accordingly, claim 34 is definite.

According to the Office Action, claim 39 is rejected because sufficient structure has not been set forth to perform the recited function of driving the press plate and the recitation "automatically activates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant submits that all of the claim language referenced in the Office Action in claim 39 is definite. First, claim 39 does not recite that the press plate is driven. Claim 39 only states that the "press plate" is "adapted to be driven towards the lid." Accordingly, this phrase is definite. Second, claim 39 states "the closure mechanism automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid." The structure that "automatically activates" is the closure mechanism. This claim language in claim 39 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim and is definite. Accordingly, claim 39 is definite.

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According to the Office Action, claim 48 is rejected because the recitation "automatically deactivates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Claim 48 states "the closure mechanism automatically deactivates when the closure mechanism is not activated by the hydraulic assembly." The structure that "automatically deactivates" is the closure mechanism. This claim language in claim 48 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, claim 48 is definite.

According to the Office Action, claim 50 is rejected because sufficient structure has not been set forth to perform the recited function of driving the press plate and the recitation "automatically deactivates" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant submits that all of the claim language referenced in the Office Action in claim 50 is definite. First, claim 50 does not recite that the press plate is driven. Claim 50 only states that the "press plate" is "adapted to be driven towards the lid." Accordingly, this phrase is definite. Second, claim 50 states "the closure mechanism automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper." The structure that "automatically deactivates" is the closure mechanism. This claim language in claim 50 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim and is definite. Accordingly, claim 50 is definite.

According to the Office Action, claim 60 is rejected because structural cooperation is not positively set forth for "an actuating mechanism," particularly with respect to the press plate, and the recitation "automatically deactivated" is vague and indefinite since sufficient structure has not been set forth to perform such a function. Applicant submits that all of the claim language referenced in the Office Action in claim 60 is definite. First, the "actuating mechanism" is for driving the press plate towards the lid. Accordingly, the actuating mechanism cooperates with the press plate to drive the press plate. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and this phrase is definite. Second, claim 60 states "the closure mechanism is automatically deactivated to discontinue maintaining the lid in the closed position

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when the actuating mechanism is not activated." The structure that is "automatically deactivated" is the closure mechanism. Once again, this claim language in claim 60 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, claim 60 is definite.

Claim 61 has been rejected as being vague and indefinite "since sufficient structure has not been set forth to perform the recited function of driving the press plate" and the recitation "automatically activates" is "vague and indefinite since it does not appear that sufficient structure has not been set forth to perform such a function." First, claim 61 does not state that the press plate is driven towards a lid. Claim 61 only states that the press plate is "adapted to be driven towards the lid." Second, claim 61 states that "the means for maintaining automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid." According to 35 U.S.C. §112, sixth paragraph:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claims shall be construed to cover the corresponding structure, material, or acts described in the specification or equivalents thereof.

Therefore, the language used in claim 61, by definition, includes the structure disclosed in the specification that performs the recited function or equivalents thereof. In other words, by definition, claim 61, according to 35 U.S.C. §112, sixth paragraph, defines a sufficient structure for automatically activating. Accordingly, claim 61 is definite.

Claim 62 has been rejected as being vague and indefinite "since sufficient structure has not been set forth to perform the recited function of driving the press plate" and the recitation "automatically deactivates" is "vague and indefinite since it does not appear that sufficient structure has not been set forth to perform such a function." First, claim 62 does not state that the press plate is driven towards a lid. Claim 62 only states that the press plate is "adapted to be driven towards the lid." Second, claim 62 states that "the means for maintaining automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed and divided within the hopper."

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As stated above in regard to claim 61, the language used in claim 62, by definition under the law, includes the structure disclosed in the specification that performs the recited function or equivalents thereof. In other words, by definition, claim 62, according to 35 U.S.C. §112, sixth paragraph, defines a sufficient structure for automatically activating. Accordingly, claim 62 is definite.

Claims 1, 18, 39, 50, 61 and 62 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,896,564 to Simon. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based upon the prior art. *In re Sun*, 31 USPQ 2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Applicant respectfully asserts that the Examiner has not yet met his burden of establishing a prima facie case of anticipation with respect to the rejected claims.

Simon discloses a cake molding machine including a ram A and a block head B. The block head B pivots about a hinge 62 and includes a latch 80 having a hook 81 adapted to move into an opening in a keeper 82 to keep the block head B in a down position. The block head B is moved to the down position automatically by activation of a handle 76. Once the block head B is moved to the down position, the hook 81 moves into the opening in the keeper 82. Once the handle 76 is released, a piston 90 will push a roller 92 upwards to engage a cam 93, thereby forcing the hook 81 out of engagement with the keeper 82 and the block head B will automatically pivot open about the hinge 62. In order to move the ram A towards the block head B, a lever 99 must be activated. Accordingly, the block head B is not automatically maintained in a closed position as the ram A is moved towards the block head B. If the handle 76 was released, but the lever 99 was not released, the ram A would be driven towards the block head B, but the latch 80 would disengage from the keeper 82, thereby allowing the block head B to open. Furthermore, once the cake mix has been compressed between the block head B and the ram A, the latch 99 is released to discontinue compressing the cake mix. However, the latch 80 is not disengaged from the keeper 82 until the handle 76 is released.

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Claim 1 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated, a press plate vertically slidable within the hopper, with the hopper being adapted to accept food between the lid and the press plate, wherein the press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and wherein the latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

The prior art of record does not disclose the above noted features of claim 1. Specifically, the Simon '564 patent does not disclose a latch assembly that automatically activates to maintain a lid in a closed position while a press plate is driven towards a lid. In the Simon '564 patent, in order to remove the ram A towards the block head B, a lever 99 must be activated. Accordingly, the block head B is not automatically maintained in a closed position as the ram A is moved towards the block head B. If the handle 76 was released, but the lever 99 was not released, the ram A would be driven towards the block head B, but the latch 80 would disengage from the keeper 82, thereby allowing the block head B to open. Accordingly, claim 1 is in condition for allowance. Furthermore, claims 2-17 depend from claim 1, and since claim 1 defines unobvious patentable subject matter, claims 2-17 define patentable subject matter. Accordingly, claims 1-17 are in condition for allowance.

Claim 18 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated, a press plate vertically slidable within the hopper, with the hopper being adapted to accept food between the lid and the press plate, wherein the press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and wherein the latch assembly automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

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The prior art of record does not disclose the above noted features of claim 18. Specifically, the Simon '564 patent does not disclose a latch assembly that automatically deactivates to discontinue maintaining a lid in a closed position after food has been compressed with a hopper. In the Simon '564 patent, once the cake mix has been compressed between the block head B and the ram A, the latch 99 is released to discontinue compressing the cake mix. However, the latch 80 is not disengaged from the keeper 82 until the handle 76 is released. Accordingly, claim 18 is in condition for allowance. Furthermore, claims 19-38 depend from claim 18, and since claim 18 defines unobvious patentable subject matter, claims 19-38 define patentable subject matter. Accordingly, claims 18-38 are in condition for allowance.

Claim 39 defines a food press, including, among other things, a hopper with a lid having an open position and a closed position, a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated, and a press plate vertically slidable within the hopper, wherein the hopper is adapted to accept food between the lid and the press plate, the press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and the closure mechanism automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

The prior art of record does not disclose the above noted features of claim 39. Specifically, the Simon '564 patent does not disclose a closure mechanism that automatically activates to maintain a lid in a closed position while a press plate is driven towards a lid. In the Simon '564 patent, in order to remove the ram A towards the block head B, a lever 99 must be activated. Accordingly, the block head B is not automatically maintained in a closed position as the ram A is moved towards the block head B. If the handle 76 was released, but the lever 99 was not released, the ram A would be driven towards the block head B, but the latch 80 would disengage from the keeper 82, thereby allowing the block head B to open. Accordingly, claim 39 is in condition for allowance. Furthermore, claims 40-49 depend from

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claim 39, and since claim 39 defines unobvious patentable subject matter, claims 40-49 define patentable subject matter. Accordingly, claims 39-49 are in condition for allowance.

Claim 50 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated, and a press plate vertically slidable within the hopper, wherein the hopper is adapted to accept food between the lid and the press plate, the press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and the closure mechanism automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

The prior art of record does not disclose the above noted features of claim 50. Specifically, the Simon '564 patent does not disclose a closure mechanism that automatically deactivates to discontinue maintaining a lid in a closed position after food has been compressed within a hopper. In the Simon '564 patent, once the cake mix has been compressed between the block head B and the ram A, the latch 99 is released to discontinue compressing the cake mix. However, the latch 80 is not disengaged from the keeper 82 until the handle 76 is released. Accordingly, claim 50 is in condition for allowance. Furthermore, claims 51-60 depend from claim 50, and since claim 50 defines unobvious patentable subject matter, claims 51-60 define patentable subject matter. Accordingly, claims 50-60 are in condition for allowance.

Claim 61 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, means for maintaining the lid in the closed position when the means for maintaining is activated and to discontinue maintaining the lid in the closed position when the means for maintaining is deactivated, and a press plate vertically slidable within the hopper, the hopper being adapted to accept food between the lid and the press plate, wherein the press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and the means for

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maintaining automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

The prior art of record does not disclose the above noted features of claim 61. Specifically, the Simon '564 patent does not disclose means for maintaining that automatically deactivates to discontinue maintaining a lid in a closed position after food has been compressed within a hopper. In the Simon '564 patent, in order to remove the ram A towards the block head B, a lever 99 must be activated. Accordingly, the block head B is not automatically maintained in a closed position as the ram A is moved towards the block head B. If the handle 76 was released, but the lever 99 was not released, the ram A would be driven towards the block head B, but the latch 80 would disengage from the keeper 82, thereby allowing the block head B to open. Accordingly, claim 61 is in condition for allowance.

Claim 62 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, means for maintaining the lid in the closed position when the means for maintaining is activated and to discontinue maintaining the lid in the closed position when the means for maintaining is deactivated, and a press plate vertically slidable within the hopper, the hopper being adapted to accept food between the lid and the press plate, wherein the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and the means for maintaining automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

The prior art of record does not disclose the above noted features of claim 62. Specifically, the Simon '564 patent does not disclose means for maintaining that automatically deactivates to discontinue maintaining a lid in a closed position after food has been compressed within a hopper. In the Simon '564 patent, once the cake mix has been compressed between the block head B and the ram A, the latch 99 is released to discontinue compressing the cake mix. However, the latch 80 is not disengaged from the keeper 82 until the handle 76 is released. Accordingly, claim 62 is in condition for allowance.

Claims 2-17, 19-38, 40-49 and 51-60 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or, in the alternative, under 35 U.S.C. §103(a) as being obvious over the

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Simon '564 patent. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP §2143.01 provides further guidance as to what is necessary in showing that there was motivation known in the prior art to modify a reference teaching. Specifically, MPEP §2143.01 states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

A statement that modifications of the prior art to meet the claimed invention would have been 'well within the ordinary skill of the art at the time the claimed invention was made,' because the references relied upon teach all aspects of the claimed invention were individually known in the prior art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a *prima facie* case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

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According to the Office Action, the Simon '564 patent either teaches all of the elements of the dependent claims, or the elements of the dependent claims are obvious in view of the Simon '564 patent. Applicant notes that 37 C.F.R. §1.104(c)(2) states that:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained in each rejected claim specified.

Accordingly, Applicant submits that the Examiner has not met his burden for rejecting the dependent claims as being anticipated by the Simon '564 patent and that the Simon '564 patent does not anticipate the rejected claims.

Furthermore, according to the Office Action:

The features claimed thereby are not considered to distinguish the claimed invention over the prior art based on applicant's statement on page 4, lines 24-25 of the Petition filed October 21, 2002: "Applicant submits that the features of the dependent claims in the groups are not required for patentability." Therefore, based on applicant's admission, the features claimed in these dependent claims cannot be considered to distinguish the claimed invention over the prior art and are considered to be non-critical and thus obvious in view of the prior art.

Applicant notes that the Office Action has only quoted a portion of a sentence. According to the Petition filed October 21, 2002, "since claims are assumed to be in proper form and patentable over the prior art, Applicant submits that the features of the dependent claims in the groups are not required for patentability." Therefore, the Petition filed October 21, 2002 stated that, since the independent claims are assumed to be in proper form and patentable over the prior art, the features of the dependent claims are not required for patentability of the independent claims. However, that does not mean that the dependent claims are not patentable over the independent claims. Therefore, Applicant has never made an admission that the dependent claims are obvious over the independent claims. Accordingly, since Applicant has not admitted that claims 2-17, 19-38, 40-49 and 51-60 are obvious in view of the independent claims and for other reasons discussed above, claims 2-17, 19-38, 40-49 and 51-60 are in condition for allowance.

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All pending claims 1-60 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Please amend claims 34 and 60 as follows.

34. (Twice Amended) The food press of claim 18, further comprising:
an actuating mechanism for driving the press plate towards the lid when activated;
wherein the latch [mechanism] assembly is automatically deactivated to discontinue
maintaining the lid in the closed position when the actuating mechanism is not activated.
60. (Amended) The food press of claim 50, further comprising:
an actuating mechanism for driving the press plate towards the lid when activated;
wherein the [latch] closure mechanism is automatically deactivated to discontinue
maintaining the lid in the closed position when the actuating mechanism is not activated.